

REMARKS/ARGUMENTS

Claims 4, 5, and 10 are amended. Claims 4 and 10 are made independent and Claim 5 now depends from Claim 3. Support for the amendment is found in the original claims and at page 6, line 8, of the specification. No new matter is believed to be introduced by the amendment.

At the outset, Applicants thank Examiner Kerr for her very helpful suggestions during the discussion of the present application held on October 6, 2003, which is summarized and expanded upon below. Further, Applicants thank Examiner Kerr for indicating allowable subject matter and withdrawing many of the rejections within the earlier Office Action. Finally, Applicants thank Examiner Kerr for not making the outstanding Office Action Final.

The specification is objected to for not describing all the sequences cited in the sequence listing. However, the Examiner's attention is directed to page 20, lines 16-18, where SEQ ID NO. 3 is described in the specification. Accordingly, withdrawal of this ground of objection is respectfully requested.

The objection of Claims 4, 8, 10, and 11 is believed to be obviated by the amendment above. Claim 4 is made independent. Claim 8 is canceled. Claim 10 is made independent. Claim 11 depends from Claim 10 and is believed to further limit the scope of Claim 10. Accordingly, withdrawal of this ground of objection is respectfully submitted.

The rejection of Claim 8 under 35 U.S.C. § 112, second paragraph, is obviated by the cancellation of this claim. Accordingly, withdrawal of this ground of rejection is respectfully submitted.

The rejections of Claims 5-8, 10, 11 under 35 U.S.C. § 112, first paragraph, is obviated by the amendment above. Claim 5 is amended so as to be drawn to the isolated polynucleotide according to Claim 3, wherein said polynucleotide encodes a protein having LuxR transcriptional activation activity. Claims 6-8 are cancelled. Claim 10 is amended to

be independent; and therefore, Claim 10 no longer contains the language questioned by the Examiner. Further, Claim 11 depends thereon Claim 10. Accordingly, withdrawal of this ground of rejection is respectfully submitted.

The rejections of Claims 8 and 10 under 35 U.S.C. § 102(b) over Schmitt et al. is believed to be obviated by the above amendment combined with the remarks below. Claim 8 is canceled. Claim 10 is now drawn to a an isolated polynucleotide, consisting of at least 30 consecutive nucleotides of an isolated polynucleotide comprising SEQ ID NO:1. As noted by the Office in the outstanding Office Action, Schmitt et al. discloses, at best, a polynucleotide having at most 22 consecutive nucleotides of an isolated polynucleotide comprising SEQ ID NO:1. Since Schmitt et al. fails to disclose or suggest a polynucleotide having at most 30 consecutive nucleotides of an isolated polynucleotide comprising SEQ ID NO:1, Schmitt et al. fails to disclose or suggest the claimed invention. Accordingly, withdrawal of this ground of rejection is respectfully submitted.

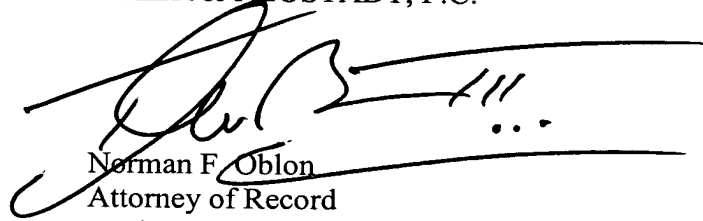
The rejections of Claim 8 under 35 U.S.C. § 102(b) over any one of Pompejus et al. and/or Nakagawa et al. are obviated by the cancellation of this claim. Accordingly, withdrawal of these grounds of rejection is respectfully submitted.

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Applicants respectfully submit that the present application is now in condition for allowance. Early notice to this effect is respectfully requested. Should anything further be required to place this application in condition for allowance, the Examiner is requested to contact the undersigned by telephone.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

A handwritten signature in black ink, appearing to read 'Norman F. Oblon', is written over a horizontal line. Below the signature, the text 'Norman F. Oblon' is printed.

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